

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NOS. 221, 250 & 256
93RD GENERAL ASSEMBLY

Reported from the Committee on Transportation April 20, 2005 with recommendation that House Committee Substitute for Senate Committee Substitute for Senate Bill Nos. 221, 250 & 256 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(26)(f).

STEPHEN S. DAVIS, Chief Clerk

0633L.07C

AN ACT

To repeal sections 43.250, 210.104, 210.107, 301.010, 302.020, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 307.178, 577.023, and 577.041, RSMo, and section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, and to enact in lieu thereof twenty new sections relating to the operation of motor vehicles, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 43.250, 210.104, 210.107, 301.010, 302.020, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 307.178, 577.023, and 577.041, RSMo, and section 302.302 as enacted by house substitute for senate substitute for senate committee substitute for senate bill nos. 1233, 840 & 1043, ninety-second general assembly, second regular session, and section 302.302 as enacted by conference committee substitute no. 2 for senate committee substitute for house committee substitute for house bill nos. 302 & 38, ninety-first general assembly, first regular session, are repealed and twenty new sections enacted in lieu thereof, to be known as sections 43.250, 301.010, 302.020, 302.302, 302.510, 302.530, 304.015, 304.016, 304.155, 304.281, 304.351, 304.580, 304.582, 304.585, 304.590, 307.156, 307.178, 307.179, 577.023, and 577.041, to read as follows:

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

43.250. Every law enforcement officer who investigates a vehicle accident resulting in injury to or death of a person, or total property damage to an apparent extent of [five hundred] **two thousand** dollars or more to one person, or who otherwise prepares a written or computer-generated report as a result of an investigation either at the time of and at the scene of the accident or thereafter by interviewing the participants or witnesses, shall forward a report of such accident to the superintendent of the Missouri state highway patrol within ten days after his or her investigation of the accident, except that upon the approval of the superintendent of the Missouri state highway patrol the report may be forwarded at a time and/or in a form other than as required in this section.

301.010. As used in this chapter and sections 304.010 to 304.040, 304.120 to 304.260, RSMo, and sections 307.010 to 307.175, RSMo, the following terms mean:

(1) "All-terrain vehicle", any motorized vehicle manufactured and used exclusively for off-highway use which is fifty inches or less in width, with an unladen dry weight of one thousand pounds or less, traveling on three, four or more low pressure tires, with a seat designed to be straddled by the operator, or with a seat designed to carry more than one person, and handlebars for steering control;

(2) "Automobile transporter", any vehicle combination designed and used specifically for the transport of assembled motor vehicles;

(3) "Axle load", the total load transmitted to the road by all wheels whose centers are included between two parallel transverse vertical planes forty inches apart, extending across the full width of the vehicle;

(4) "Boat transporter", any vehicle combination designed and used specifically to transport assembled boats and boat hulls;

(5) "Body shop", a business that repairs physical damage on motor vehicles that are not owned by the shop or its officers or employees by mending, straightening, replacing body parts, or painting;

(6) "Bus", a motor vehicle primarily for the transportation of a driver and eight or more passengers but not including shuttle buses;

(7) "Commercial motor vehicle", a motor vehicle designed or regularly used for carrying freight and merchandise, or more than eight passengers but not including vanpools or shuttle buses;

(8) "Cotton trailer", a trailer designed and used exclusively for transporting cotton at speeds less than forty miles per hour from field to field or from field to market and return;

(9) "Dealer", any person, firm, corporation, association, agent or subagent engaged in the sale or exchange of new, used or reconstructed motor vehicles or trailers;

(10) "Director" or "director of revenue", the director of the department of revenue;

(11) "Driveaway operation":

(a) The movement of a motor vehicle or trailer by any person or motor carrier other than a dealer over any public highway, under its own power singly, or in a fixed combination of two or more vehicles, for the purpose of delivery for sale or for delivery either before or after sale;

(b) The movement of any vehicle or vehicles, not owned by the transporter, constituting the commodity being transported, by a person engaged in the business of furnishing drivers and operators for the purpose of transporting vehicles in transit from one place to another by the driveaway or towaway methods; or

(c) The movement of a motor vehicle by any person who is lawfully engaged in the business of transporting or delivering vehicles that are not the person's own and vehicles of a type otherwise required to be registered, by the driveaway or towaway methods, from a point of manufacture, assembly or distribution or from the owner of the vehicles to a dealer or sales agent of a manufacturer or to any consignee designated by the shipper or consignor;

(12) "Dromedary", a box, deck, or plate mounted behind the cab and forward of the fifth wheel on the frame of the power unit of a truck tractor-semitrailer combination. A truck tractor equipped with a dromedary may carry part of a load when operating independently or in a combination with a semitrailer;

(13) "Farm tractor", a tractor used exclusively for agricultural purposes;

(14) "Fleet", any group of ten or more motor vehicles owned by the same owner;

(15) "Fleet vehicle", a motor vehicle which is included as part of a fleet;

(16) "Fullmount", a vehicle mounted completely on the frame of either the first or last vehicle in a saddlemount combination;

(17) "Gross weight", the weight of vehicle and/or vehicle combination without load, plus the weight of any load thereon;

(18) "Hail-damaged vehicle", any vehicle, the body of which has become dented as the result of the impact of hail;

(19) "Highway", any public thoroughfare for vehicles, including state roads, county roads and public streets, avenues, boulevards, parkways or alleys in any municipality;

(20) "Improved highway", a highway which has been paved with gravel, macadam, concrete, brick or asphalt, or surfaced in such a manner that it shall have a hard, smooth surface;

(21) "Intersecting highway", any highway which joins another, whether or not it crosses the same;

(22) "Junk vehicle", a vehicle which is incapable of operation or use upon the highways and has no resale value except as a source of parts or scrap, and shall not be titled or registered;

(23) "Kit vehicle", a motor vehicle assembled by a person other than a generally recognized manufacturer of motor vehicles by the use of a glider kit or replica purchased from an authorized manufacturer and accompanied by a manufacturer's statement of origin;

(24) "Land improvement contractors' commercial motor vehicle", any not-for-hire commercial motor vehicle the operation of which is confined to:

(a) An area that extends not more than a radius of one hundred miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from

projects involving soil and water conservation, or to and from equipment dealers' maintenance facilities for maintenance purposes; or

(b) An area that extends not more than a radius of fifty miles from its home base of operations when transporting its owner's machinery, equipment, or auxiliary supplies to or from projects not involving soil and water conservation. Nothing in this subdivision shall be construed to prevent any motor vehicle from being registered as a commercial motor vehicle or local commercial motor vehicle;

(25) "Local commercial motor vehicle", a commercial motor vehicle whose operations are confined solely to a municipality and that area extending not more than fifty miles therefrom, or a commercial motor vehicle whose property-carrying operations are confined solely to the transportation of property owned by any person who is the owner or operator of such vehicle to or from a farm owned by such person or under the person's control by virtue of a landlord and tenant lease; provided that any such property transported to any such farm is for use in the operation of such farm;

(26) "Local log truck", a commercial motor vehicle which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, carries a load with dimensions not in excess of twenty-five cubic yards per two axles with dual wheels, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle shall not exceed the weight limits of section 304.180, RSMo, does not have more than four axles, and does not pull a trailer which has more than two axles. **Harvesting equipment that may be transported on a local log truck must be used specifically for cutting, felling, trimming, de-limbing, de-barking, chipping, skidding, loading, unloading, and stacking.** A local log truck may not exceed the limits required by law, however, if the truck does exceed such limits as determined by the inspecting officer, then notwithstanding any other provisions of law to the contrary, such truck shall be subject to the weight limits required by such sections as licensed for eighty thousand pounds;

(27) "Local log truck tractor", a commercial motor vehicle which is registered under this chapter to operate as a motor vehicle on the public highways of this state, used exclusively in this state, used to transport harvested forest products, operated solely at a forested site and in an area extending not more than a fifty-mile radius from such site, operates with a weight not exceeding twenty-two thousand four hundred pounds on one axle or with a weight not exceeding forty-four thousand eight hundred pounds on any tandem axle, and when operated on the national system of interstate and defense highways described in Title 23, Section 103(e) of the United States Code, such vehicle does not exceed the weight limits contained in section 304.180, RSMo, and does not have more than three axles and does not pull a trailer which has more than two axles. Violations of axle

weight limitations shall be subject to the load limit penalty as described for in sections 304.180 to 304.220, RSMo;

(28) "Local transit bus", a bus whose operations are confined wholly within a municipal corporation, or wholly within a municipal corporation and a commercial zone, as defined in section 390.020, RSMo, adjacent thereto, forming a part of a public transportation system within such municipal corporation and such municipal corporation and adjacent commercial zone;

(29) "Log truck", a vehicle which is not a local log truck or local log truck tractor and is used exclusively to transport harvested forest products to and from forested sites which is registered pursuant to this chapter to operate as a motor vehicle on the public highways of this state for the transportation of harvested forest products;

(30) "Major component parts", the rear clip, cowl, frame, body, cab, front-end assembly, and front clip, as those terms are defined by the director of revenue pursuant to rules and regulations or by illustrations;

(31) "Manufacturer", any person, firm, corporation or association engaged in the business of manufacturing or assembling motor vehicles, trailers or vessels for sale;

(32) "Mobile scrap processor", a business located in Missouri or any other state that comes onto a salvage site and crushes motor vehicles and parts for transportation to a shredder or scrap metal operator for recycling;

(33) "Motor change vehicle", a vehicle manufactured prior to August, 1957, which receives a new, rebuilt or used engine, and which used the number stamped on the original engine as the vehicle identification number;

(34) "Motor vehicle", any self-propelled vehicle not operated exclusively upon tracks, except farm tractors;

(35) "Motor vehicle primarily for business use", any vehicle other than a recreational motor vehicle, motorcycle, motortricycle, or any commercial motor vehicle licensed for over twelve thousand pounds:

(a) Offered for hire or lease; or

(b) The owner of which also owns ten or more such motor vehicles;

(36) "Motorcycle", a motor vehicle operated on two wheels;

(37) "Motorized bicycle", any two-wheeled or three-wheeled device having an automatic transmission and a motor with a cylinder capacity of not more than fifty cubic centimeters, which produces less than three gross brake horsepower, and is capable of propelling the device at a maximum speed of not more than thirty miles per hour on level ground;

(38) "Motortricycle", a motor vehicle operated on three wheels, including a motorcycle while operated with any conveyance, temporary or otherwise, requiring the use of a third wheel. A motortricycle shall not be included in the definition of all-terrain vehicle;

(39) "Municipality", any city, town or village, whether incorporated or not;

(40) "Nonresident", a resident of a state or country other than the state of Missouri;

(41) "Non-USA-std motor vehicle", a motor vehicle not originally manufactured in compliance with United States emissions or safety standards;

(42) "Operator", any person who operates or drives a motor vehicle;

(43) "Owner", any person, firm, corporation or association, who holds the legal title to a vehicle or in the event a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or in the event a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor shall be deemed the owner for the purpose of this law;

(44) "Public garage", a place of business where motor vehicles are housed, stored, repaired, reconstructed or repainted for persons other than the owners or operators of such place of business;

(45) "Rebuilder", a business that repairs or rebuilds motor vehicles owned by the rebuilder, but does not include certificated common or contract carriers of persons or property;

(46) "Reconstructed motor vehicle", a vehicle that is altered from its original construction by the addition or substitution of two or more new or used major component parts, excluding motor vehicles made from all new parts, and new multistage manufactured vehicles;

(47) "Recreational motor vehicle", any motor vehicle designed, constructed or substantially modified so that it may be used and is used for the purposes of temporary housing quarters, including therein sleeping and eating facilities which are either permanently attached to the motor vehicle or attached to a unit which is securely attached to the motor vehicle. Nothing herein shall prevent any motor vehicle from being registered as a commercial motor vehicle if the motor vehicle could otherwise be so registered;

(48) "Rollback or car carrier", any vehicle specifically designed to transport wrecked, disabled or otherwise inoperable vehicles, when the transportation is directly connected to a wrecker or towing service;

(49) "Saddlemount combination", a combination of vehicles in which a truck or truck tractor tows one or more trucks or truck tractors, each connected by a saddle to the frame or fifth wheel of the vehicle in front of it. The "saddle" is a mechanism that connects the front axle of the towed vehicle to the frame or fifth wheel of the vehicle in front and functions like a fifth wheel kingpin connection. When two vehicles are towed in this manner the combination is called a "double saddlemount combination". When three vehicles are towed in this manner, the combination is called a "triple saddlemount combination";

(50) "Salvage dealer and dismantler", a business that dismantles used motor vehicles for the sale of the parts thereof, and buys and sells used motor vehicle parts and accessories;

(51) "Salvage vehicle", a motor vehicle, semitrailer, or house trailer which:

(a) Has been damaged to the extent that the total cost of repairs to rebuild or reconstruct the vehicle to its condition immediately before it was damaged for legal operation on the roads or

highways exceeds seventy- five percent of the fair market value of the vehicle immediately preceding the time it was damaged;

(b) By reason of condition or circumstance, has been declared salvage, either by its owner, or by a person, firm, corporation, or other legal entity exercising the right of security interest in it;

(c) Has been declared salvage by an insurance company as a result of settlement of a claim for loss due to damage or theft;

(d) Ownership of which is evidenced by a salvage title; or

(e) Is abandoned property which is titled pursuant to section 304.155, RSMo, or section 304.157, RSMo, and designated with the words "salvage/abandoned property".

The total cost of repairs to rebuild or reconstruct the vehicle shall not include the cost of repairing, replacing, or reinstalling inflatable safety restraints, tires, sound systems, or any sales tax on parts or materials to rebuild or reconstruct the vehicle. For purposes of this definition, "fair market value" means the retail value of a motor vehicle as:

a. Set forth in a current edition of any nationally recognized compilation of retail values, including automated databases, or from publications commonly used by the automotive and insurance industries to establish the values of motor vehicles;

b. Determined pursuant to a market survey of comparable vehicles with regard to condition and equipment; and

c. Determined by an insurance company using any other procedure recognized by the insurance industry, including market surveys, that is applied by the company in a uniform manner;

(52) "School bus", any motor vehicle used solely to transport students to or from school or to transport students to or from any place for educational purposes;

(53) "Shuttle bus", a motor vehicle used or maintained by any person, firm, or corporation as an incidental service to transport patrons or customers of the regular business of such person, firm, or corporation to and from the place of business of the person, firm, or corporation providing the service at no fee or charge. Shuttle buses shall not be registered as buses or as commercial motor vehicles;

(54) "Special mobile equipment", every self-propelled vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including farm equipment, implements of husbandry, road construction or maintenance machinery, ditch-digging apparatus, stone crushers, air compressors, power shovels, cranes, graders, rollers, well-drillers and wood-sawing equipment used for hire, asphalt spreaders, bituminous mixers, bucket loaders, ditchers, leveling graders, finished machines, motor graders, road rollers, scarifiers, earth-moving carryalls, scrapers, drag lines, concrete pump trucks, rock-drilling and earth-moving equipment. This enumeration shall be deemed partial and shall not operate to exclude other such vehicles which are within the general terms of this section;

(55) "Specially constructed motor vehicle", a motor vehicle which shall not have been originally constructed under a distinctive name, make, model or type by a manufacturer of motor vehicles. The term "specially constructed motor vehicle" includes kit vehicles;

(56) "Stinger-steered combination", a truck tractor-semitrailer wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit;

(57) "Tandem axle", a group of two or more axles, arranged one behind another, the distance between the extremes of which is more than forty inches and not more than ninety-six inches apart;

(58) "Tractor", "truck tractor" or "truck-tractor", a self-propelled motor vehicle designed for drawing other vehicles, but not for the carriage of any load when operating independently. When attached to a semitrailer, it supports a part of the weight thereof;

(59) "Trailer", any vehicle without motive power designed for carrying property or passengers on its own structure and for being drawn by a self-propelled vehicle, except those running exclusively on tracks, including a semitrailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle. The term "trailer" shall not include cotton trailers as defined in subdivision (8) of this section and shall not include manufactured homes as defined in section 700.010, RSMo;

(60) "Truck", a motor vehicle designed, used, or maintained for the transportation of property;

(61) "Truck-tractor semitrailer-semitrailer", a combination vehicle in which the two trailing units are connected with a B-train assembly which is a rigid frame extension attached to the rear frame of a first semitrailer which allows for a fifth-wheel connection point for the second semitrailer and has one less articulation point than the conventional "A dolly" connected truck-tractor semitrailer-trailer combination;

(62) "Truck-trailer boat transporter combination", a boat transporter combination consisting of a straight truck towing a trailer using typically a ball and socket connection with the trailer axle located substantially at the trailer center of gravity rather than the rear of the trailer but so as to maintain a downward force on the trailer tongue;

(63) "Used parts dealer", a business that buys and sells used motor vehicle parts or accessories, but not including a business that sells only new, remanufactured or rebuilt parts. "Business" does not include isolated sales at a swap meet of less than three days;

(64) "Vanpool", any van or other motor vehicle used or maintained by any person, group, firm, corporation, association, city, county or state agency, or any member thereof, for the transportation of not less than eight nor more than forty-eight employees, per motor vehicle, to and from their place of employment; however, a vanpool shall not be included in the definition of the term "bus" or "commercial motor vehicle" as defined by subdivisions (6) and (7) of this section, nor shall a vanpool driver be deemed a "chauffeur" as that term is defined by section 302.010, RSMo; nor shall use of a vanpool vehicle for ride-sharing arrangements, recreational, personal, or

maintenance uses constitute an unlicensed use of the motor vehicle, unless used for monetary profit other than for use in a ride-sharing arrangement;

(65) "Vehicle", any mechanical device on wheels, designed primarily for use, or used, on highways, except motorized bicycles, vehicles propelled or drawn by horses or human power, or vehicles used exclusively on fixed rails or tracks, or cotton trailers or motorized wheelchairs operated by handicapped persons;

(66) "Wrecker" or "tow truck", any emergency commercial vehicle equipped, designed and used to assist or render aid and transport or tow disabled or wrecked vehicles from a highway, road, street or highway rights-of-way to a point of storage or repair, including towing a replacement vehicle to replace a disabled or wrecked vehicle;

(67) "Wrecker or towing service", the act of transporting, towing or recovering with a wrecker, tow truck, rollback or car carrier any vehicle not owned by the operator of the wrecker, tow truck, rollback or car carrier for which the operator directly or indirectly receives compensation or other personal gain.

302.020. 1. Unless otherwise provided for by law, it shall be unlawful for any person, except those expressly exempted by section 302.080, to:

(1) Operate any vehicle upon any highway in this state unless the person has a valid license;

(2) Operate a motorcycle or motortricycle upon any highway of this state unless such person has a valid license that shows the person has successfully passed an examination for the operation of a motorcycle or motortricycle as prescribed by the director. The director may indicate such upon a valid license issued to such person, or shall issue a license restricting the applicant to the operation of a motorcycle or motortricycle if the actual demonstration, required by section 302.173, is conducted on such vehicle;

(3) Authorize or knowingly permit a motorcycle or motortricycle owned by such person or under such person's control to be driven upon any highway by any person whose license does not indicate that the person has passed the examination for the operation of a motorcycle or motortricycle or has been issued an instruction permit therefor;

(4) Operate a motor vehicle with an instruction permit or license issued to another person.

2. Every person **who is under twenty-one years of age** operating or riding as a passenger on any motorcycle or motortricycle, as defined in section 301.010, RSMo, upon any highway of this state shall wear protective headgear at all times the vehicle is in motion. The protective headgear shall meet reasonable standards and specifications established by the director.

3. Notwithstanding the provisions of section 302.340 any person convicted of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class A misdemeanor. Any person convicted a third or subsequent time of violating subdivision (1) or (2) of subsection 1 of this section is guilty of a class D felony. Notwithstanding the provisions of section 302.340, violation of subdivisions (3) and (4) of subsection 1 of this section is a class C misdemeanor and the penalty for

failure to wear protective headgear as required by subsection 2 of this section is an infraction for which a fine not to exceed twenty-five dollars may be imposed. Notwithstanding all other provisions of law and court rules to the contrary, no court costs shall be imposed upon any person due to such violation. No points shall be assessed pursuant to section 302.302 for a failure to wear such protective headgear.

302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal or federal traffic ordinance or regulation not listed in this section, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points
(except any violation of municipal stop sign ordinance
where no accident is involved 1 point)

(2) Speeding
In violation of a state law 3 points
In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of
section 577.060, RSMo 12 points
In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4 of
section 304.016, RSMo 4 points
In violation of a county or municipal ordinance 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1
of section 302.020:

(a) For the first conviction 2 points
(b) For the second conviction. 4 points
(c) For the third conviction 6 points
(6) Operating with a suspended or revoked license prior to restoration
of operating privileges 12 points

(7) Obtaining a license by misrepresentation 12 points
(8) For the first conviction of driving while in an intoxicated condition
or under the influence of controlled substances or drugs 8 points

(9) For the second or subsequent conviction of any of the following
offenses however combined: driving while in an intoxicated condition,
driving under the influence of controlled substances or drugs or driving with
a blood alcohol content of eight-hundredths of one percent or more by weight 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one
percent or more by weight

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| In violation of state law | 8 points |
| In violation of a county or municipal ordinance or federal law or regulation | 8 points |
| (11) Any felony involving the use of a motor vehicle | 12 points |
| (12) Knowingly permitting unlicensed operator to operate a motor vehicle | 4 points |
| (13) For a conviction for failure to maintain financial responsibility pursuant to county or municipal ordinance or pursuant to section 303.025, RSMo | 4 points |
| (14) For a conviction for failure to yield the right-of-way in violation of section 304.351, RSMo, where the court has determined that the driver caused a physical injury or serious physical injury | 8 points |
| (15) For a conviction for failure to yield the right-of-way in violation of section 304.351, RSMo, where the court has determined that the driver caused a fatality | 12 points |

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700 or a violation committed by an individual who has been issued a commercial driver's license or is required to obtain a commercial driver's license in this state or any other state, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive

Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.

[302.302. 1. The director of revenue shall put into effect a point system for the suspension and revocation of licenses. Points shall be assessed only after a conviction or forfeiture of collateral. The initial point value is as follows:

(1) Any moving violation of a state law or county or municipal ordinance, other than a violation of vehicle equipment provisions or a court-ordered supervision as provided in section 302.303 2 points

(except any violation of municipal stop sign ordinance where no accident is involved 1 point)

(2) Speeding

In violation of a state law 3 points

In violation of a county or municipal ordinance 2 points

(3) Leaving the scene of an accident in violation of section

577.060, RSMo 12 points

In violation of any county or municipal ordinance 6 points

(4) Careless and imprudent driving in violation of subsection 4

of section 304.016, RSMo 4 points

In violation of a county or municipal ordinance 2 points

(5) Operating without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020:

(a) For the first conviction 2 points

(b) For the second conviction 4 points

(c) For the third conviction 6 points

(6) Operating with a suspended or revoked license prior to restoration of operating privileges 12 points

(7) Obtaining a license by misrepresentation 12 points

(8) For the first conviction of driving while in an intoxicated condition or under the influence of controlled substances or drugs 8 points

(9) For the second or subsequent conviction of any of the following offenses however combined: driving while in an intoxicated condition, driving under the influence of controlled substances or drugs or driving with a blood alcohol content of eight-hundredths of one percent or more by weight 12 points

(10) For the first conviction for driving with blood alcohol content eight-hundredths of one percent or more by weight In violation of state law 8 points

In violation of a county or municipal ordinance or federal law or regulation . . . 8 points
 (11) Any felony involving the use of a motor vehicle 12 points
 (12) Knowingly permitting unlicensed operator to operate a motor
vehicle 4 points
 (13) For a conviction for failure to maintain financial responsibility
pursuant to county or municipal ordinance or pursuant to
section 303.025, RSMo 4 points

2. The director shall, as provided in subdivision (5) of subsection 1 of this section, assess an operator points for a conviction pursuant to subdivision (1) or (2) of subsection 1 of section 302.020, when the director issues such operator a license or permit pursuant to the provisions of sections 302.010 to 302.340.

3. An additional two points shall be assessed when personal injury or property damage results from any violation listed in subsection 1 of this section and if found to be warranted and certified by the reporting court.

4. When any of the acts listed in subdivision (2), (3), (4) or (8) of subsection 1 of this section constitutes both a violation of a state law and a violation of a county or municipal ordinance, points may be assessed for either violation but not for both. Notwithstanding that an offense arising out of the same occurrence could be construed to be a violation of subdivisions (8), (9) and (10) of subsection 1 of this section, no person shall be tried or convicted for more than one offense pursuant to subdivisions (8), (9) and (10) of subsection 1 of this section for offenses arising out of the same occurrence.

5. The director of revenue shall put into effect a system for staying the assessment of points against an operator. The system shall provide that the satisfactory completion of a driver-improvement program or, in the case of violations committed while operating a motorcycle, a motorcycle-rider training course approved by the director of the department of public safety, by an operator, when so ordered and verified by any court having jurisdiction over any law of this state or county or municipal ordinance, regulating motor vehicles, other than a violation committed in a commercial motor vehicle as defined in section 302.700, shall be accepted by the director in lieu of the assessment of points for a violation pursuant to subdivision (1), (2) or (4) of subsection 1 of this section or pursuant to subsection 3 of this section. For the purposes of this subsection, the driver-improvement program shall meet or exceed the standards of the National Safety Council's eight-hour "Defensive Driving Course" or, in the case of a violation which occurred during the operation of a motorcycle, the program shall meet the standards established by the director of the department of public safety pursuant to sections 302.133 to 302.138. The completion of a driver-improvement program or a motorcycle-rider training course shall not be accepted in lieu of points more than one time in any thirty-six-month period and shall be completed within sixty days of the date of conviction in order to be accepted in lieu of the assessment of points. Every court having jurisdiction pursuant to the provisions of this subsection shall, within fifteen days after completion of the driver-improvement program or motorcycle-rider training course by an operator, forward a record of the completion to the director, all other provisions of the law to the contrary notwithstanding. The director shall establish procedures for record keeping and the administration of this subsection.]

302.510. 1. Except as provided in subsection 3 of this section, a law enforcement officer who arrests any person for a violation of any state statute related to driving while intoxicated or for a violation of a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense, and in which the alcohol concentration in the person's blood, breath, or urine was eight-hundredths of one percent or more by weight or two-hundredths of one percent or more by weight for anyone less than twenty-one years of age, shall forward to the department a [verified] **certified** report of all information relevant to the enforcement action, including information which adequately identifies the arrested person, a statement of the officer's grounds for belief that the person violated any state statute related to driving while intoxicated or was less than twenty-one years of age and was driving with two-hundredths of one percent or more by weight of alcohol in the person's blood, or a county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense, a report of the results of any chemical tests which were conducted, and a copy of the citation and complaint filed with the court.

2. The report required by this section shall be **certified under penalties of perjury for making a false statement to a public official and** made on forms supplied by the department or in a manner specified by regulations of the department.

3. A county or municipal ordinance prohibiting driving while intoxicated or a county or municipal alcohol-related traffic offense may not be the basis for suspension or revocation of a driver's license pursuant to sections 302.500 to 302.540, unless the arresting law enforcement officer, other than an elected peace officer or official, has been [certified] **licensed** by the director of the department of public safety pursuant to the provisions of [sections 590.100 to 590.180] **chapter 590, RSMo.**

302.530. 1. Any person who has received a notice of suspension or revocation may make a request within fifteen days of receipt of the notice for a review of the department's determination at a hearing. If the person's driver's license has not been previously surrendered, it [shall] **may** be surrendered at the time the request for a hearing is made.

2. At the time the request for a hearing is made, if it appears from the record that the person is the holder of a valid driver's license issued by this state, and that the driver's license has been surrendered [as required], the department shall issue a temporary permit which shall be valid until the scheduled date for the hearing. The department may later issue an additional temporary permit or permits in order to stay the effective date of the suspension or revocation until the final order is issued following the hearing, as required by section 302.520.

3. The hearing may be held by telephone, or if requested by the person, such person's attorney or representative, in the county where the arrest was made. The hearing shall be conducted by examiners who are licensed to practice law in the state of Missouri and who are employed by the department on a part-time or full-time basis as the department may determine.

4. The sole issue at the hearing shall be whether by a preponderance of the evidence the person was driving a vehicle pursuant to the circumstances set out in section 302.505. The burden of proof shall be on the state to adduce such evidence. If the department finds the affirmative of this issue, the suspension or revocation order shall be sustained. If the department finds the negative of the issue, the suspension or revocation order shall be rescinded.

5. The procedure at such hearing shall be conducted in accordance with chapter 536, RSMo, [not otherwise in conflict] with sections 302.500 to 302.540. **A report certified under subsection 2 of section 302.510 shall be admissible in a like manner as a verified report as evidence of the facts stated therein and any provision of chapter 536, RSMo, to the contrary shall not apply.**

6. The department shall promptly notify[, by certified letter,] the person of its decision including the reasons for that decision. Such notification shall include a notice advising the person that the department's decision shall be final within fifteen days from the date [of certification of the letter] **such notice was mailed** unless the person challenges the department's decision within that time period by filing an appeal in the circuit court in the county where the arrest occurred.

7. Unless the person, within fifteen days after being notified [by certified letter] of the department's decision, files an appeal for judicial review pursuant to section 302.535, the decision of the department shall be final.

8. The director may adopt any rules and regulations necessary to carry out the provisions of this section.

304.015. 1. All vehicles not in motion shall be placed with their right side as near the right-hand side of the highway as practicable, except on streets of municipalities where vehicles are obliged to move in one direction only or parking of motor vehicles is regulated by ordinance.

2. Upon all public roads or highways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:

(1) When overtaking and passing another vehicle proceeding in the same direction pursuant to the rules governing such movement;

(2) When placing a vehicle in position for and when such vehicle is lawfully making a left turn in compliance with the provisions of sections 304.014 to 304.026 or traffic regulations thereunder or of municipalities;

(3) When the right half of a roadway is closed to traffic while under construction or repair;

(4) Upon a roadway designated by local ordinance as a one-way street and marked or signed for one-way traffic.

3. It is unlawful to drive any vehicle upon any highway or road which has been divided into two or more roadways by means of a physical barrier or by means of a dividing section or delineated by curbs, lines or other markings on the roadway, except to the right of such barrier or dividing section, or to make any left turn or semicircular or U-turn on any such divided highway, except at an intersection or interchange or at any signed location designated by the state highways and transportation commission or the department of transportation. The provisions of this subsection

shall not apply to emergency vehicles, law enforcement vehicles or to vehicles owned by the commission or the department.

4. The authorities in charge of any highway or the state highway patrol may erect signs temporarily designating lanes to be used by traffic moving in a particular direction, regardless of the center line of the highway, and all members of the Missouri highway patrol and other peace officers may direct traffic in conformance with such signs. When authorized signs have been erected designating off-center traffic lanes, no person shall disobey the instructions given by such signs.

5. Whenever any roadway has been divided into three or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

(1) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety;

(2) Upon a roadway which is divided into three lanes a vehicle shall not be driven in the center lane, except when overtaking and passing another vehicle where the roadway ahead is clearly visible and such center lane is clear of traffic within a safe distance, or in preparation for a left turn or where such center lane is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is sign-posted to give notice of such allocation;

(3) Upon all highways any vehicle proceeding at less than the normal speed of traffic thereon shall be driven in the right-hand lane for traffic or as close as practicable to the right-hand edge or curb, except as otherwise provided in sections 304.014 to 304.026;

(4) Official signs may be erected by the highways and transportation commission or the highway patrol may place temporary signs directing slow-moving traffic to use a designated lane or allocating specified lanes to traffic moving in the same direction and drivers of vehicles shall obey the directions of every such sign;

(5) Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and except when a roadway has been divided into traffic lanes, each driver shall give to the other at least one-half of the main traveled portion of the roadway whenever possible.

6. All vehicles in motion upon a highway having two or more lanes of traffic proceeding in the same direction shall be driven in the right-hand lane except when overtaking and passing another vehicle or when preparing to make a proper left turn or when otherwise directed by traffic markings, signs or signals.

7. All trucks registered for a gross weight of more than forty-eight thousand pounds, shall not be driven in the far left-hand upon all interstate highways, freeways, or expressways within the urbanized areas of this state having three or more lanes of traffic proceeding in the same direction. This restriction shall not apply when:

(1) It is reasonably necessary for the operator of the truck to respond to emergency conditions;

(2) It is necessary for the operator of the truck to avoid actual or potential traffic moving onto the right lane from an acceleration or merging lane;

(3) It is necessary for the operator of the truck to follow traffic control devices that direct use of a lane other than the right lane; or

(4) The right half of a roadway is closed to traffic while under construction or repair.

8. Violation of this section shall be deemed an infraction unless such violation causes an immediate threat of an accident, in which case such violation shall be deemed a class C misdemeanor, or unless an accident results from such violation, in which case such violation shall be deemed a class A misdemeanor.

9. **As used in subsection 7 of this section, the word "truck" means any vehicle, machine, tractor, trailer, or semitrailer, or any combination thereof, propelled or drawn by mechanical power and designed for or used in the transportation of property upon the highways. The term "truck" also includes a commercial motor vehicle as defined in section 301.010, RSMo.**

304.016. 1. The following rules shall govern the overtaking and passing of vehicles proceeding in the same direction, subject to the limitations and exceptions hereinafter stated:

(1) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle; and

(2) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle and shall not increase the speed of such driver's vehicle until completely passed by the overtaking vehicle.

2. The driver of a motor vehicle may overtake and pass to the right of another vehicle only under the following conditions:

(1) When the vehicle overtaken is making or about to make a left turn;

(2) Upon a city street with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction;

(3) Upon a one-way street;

(4) Upon any highway outside of a city with unobstructed pavement of sufficient width and clearly marked for four or more lines of traffic. The driver of a motor vehicle may overtake and pass another vehicle upon the right only under the foregoing conditions when such movement may be made in safety. In no event shall such movement be made by driving off the paved or main traveled portion of the roadway. The provisions of this subsection shall not relieve the driver of a slow-moving vehicle from the duty to drive as closely as practicable to the right-hand edge of the roadway.

3. Except when a roadway has been divided into three traffic lanes, no vehicle shall be driven to the left side of the center line of a highway or public road in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free

of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the safe operation of any vehicle approaching from the opposite direction or any vehicle overtaken.

4. No vehicle shall at any time be driven to the left side of the roadway under the following conditions:

(1) When approaching the crest of a grade or upon a curve of the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;

(2) When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, tunnel or when approaching within one hundred feet of or at any intersection or railroad grade crossing;

(3) When the roadway is clearly marked with a solid yellow center stripe indicating a no passing zone or an unsafe location to overtake or drive to the left side of the roadway.

5. Violation of this section shall be deemed a class C misdemeanor.

304.155. 1. Any law enforcement officer within the officer's jurisdiction, or an officer of a government agency where that agency's real property is concerned, may authorize a towing company to remove to a place of safety:

(1) Any abandoned property on the right-of-way of:

(a) Any interstate highway or freeway in an urbanized area, left unattended for ten hours, or [after four hours] **immediately** if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(b) Any interstate highway or freeway outside of an urbanized area, left unattended for forty-eight hours, or after four hours if a law enforcement officer determines that the abandoned property is a serious hazard to other motorists, provided that commercial motor vehicles not hauling materials designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(c) Any state highway other than an interstate highway or freeway in an urbanized area, left unattended for more than ten hours; or

(d) Any state highway other than an interstate highway or freeway outside of an urbanized area, left unattended for more than forty-eight hours; provided that commercial motor vehicles not hauling waste designated as hazardous under 49 U.S.C. 5103(a) may only be removed under this subdivision to a place of safety until the owner or owner's representative has had a reasonable opportunity to contact a towing company of choice;

(2) Any unattended abandoned property illegally left standing upon any highway or bridge if the abandoned property is left in a position or under such circumstances as to obstruct the normal movement of traffic where there is no reasonable indication that the person in control of the property is arranging for its immediate control or removal;

(3) Any abandoned property which has been abandoned under section 577.080, RSMo;

(4) Any abandoned property which has been reported as stolen or taken without consent of the owner;

(5) Any abandoned property for which the person operating such property is arrested for an alleged offense for which the officer is required to take the person into custody and where such person is unable to arrange for the property's timely removal;

(6) Any abandoned property which due to any other state law or local ordinance is subject to towing because of the owner's outstanding traffic or parking violations;

(7) Any abandoned property left unattended in violation of a state law or local ordinance where signs have been posted giving notice of the law or where the violation causes a safety hazard; or

(8) Any abandoned property illegally left standing on the waters of this state as defined in section 306.010, RSMo, where the abandoned property is obstructing the normal movement of traffic, or where the abandoned property has been unattended for more than ten hours or is floating loose on the water.

2. The state transportation department may immediately remove any abandoned, unattended, wrecked, burned or partially dismantled property, spilled cargo or other personal property from the roadway of any state highway if the abandoned property, cargo or personal property is creating a traffic hazard because of its position in relation to the state highway. In the event the property creating a traffic hazard is a commercial motor vehicle, as defined in section 302.700, RSMo, the department's authority under this subsection shall be limited to authorizing a towing company to remove the commercial motor vehicle to a place of safety, except that the owner of the commercial motor vehicle or the owner's designated representative shall have a reasonable opportunity to contact a towing company of choice. The provisions of this subsection shall not apply to vehicles transporting any material which has been designated as hazardous under Section 5103(a) of Title 49, U.S.C.

3. Any law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved from the immediate vicinity shall complete a crime inquiry and inspection report. Any state or federal government agency other than a law enforcement agency authorizing a tow pursuant to this section in which the abandoned property is moved away from the immediate vicinity in which it was abandoned shall report the towing to the state highway patrol or water patrol within two hours of the tow along with a crime inquiry and inspection report as required in this section. Any local government agency, other than a law enforcement agency, authorizing a tow pursuant to this section where property is towed away from the immediate vicinity shall report

the tow to the local law enforcement agency within two hours along with a crime inquiry and inspection report.

4. Neither the law enforcement officer, government agency official nor anyone having custody of abandoned property under his direction shall be liable for any damage to such abandoned property occasioned by a removal authorized by this section or by ordinance of a county or municipality licensing and regulating the sale of abandoned property by the municipality, other than damages occasioned by negligence or by willful or wanton acts or omissions.

5. The owner of abandoned property removed as provided in this section or in section 304.157 shall be responsible for payment of all reasonable charges for towing and storage of such abandoned property as provided in section 304.158.

6. Upon the towing of any abandoned property pursuant to this section or under authority of a law enforcement officer or local government agency pursuant to section 304.157, the law enforcement agency that authorized such towing or was properly notified by another government agency of such towing shall promptly make an inquiry with the national crime information center and any statewide Missouri law enforcement computer system to determine if the abandoned property has been reported as stolen and shall enter the information pertaining to the towed property into the statewide law enforcement computer system. If the abandoned property is not claimed within ten working days of the towing, the tower who has online access to the department of revenue's records shall make an inquiry to determine the abandoned property owner and lienholder, if any, of record. In the event that the records of the department of revenue fail to disclose the name of the owner or any lienholder of record, the tower shall comply with the requirements of subsection 3 of section 304.156. If the tower does not have online access, the law enforcement agency shall submit a crime inquiry and inspection report to the director of revenue. A towing company that does not have online access to the department's records and that is in possession of abandoned property after ten working days shall report such fact to the law enforcement agency with which the crime inquiry and inspection report was filed. The crime inquiry and inspection report shall be designed by the director of revenue and shall include the following:

- (1) The year, model, make and property identification number of the property and the owner and any lienholders, if known;
- (2) A description of any damage to the property noted by the officer authorizing the tow;
- (3) The license plate or registration number and the state of issuance, if available;
- (4) The storage location of the towed property;
- (5) The name, telephone number and address of the towing company;
- (6) The date, place and reason for the towing of the abandoned property;
- (7) The date of the inquiry of the national crime information center, any statewide Missouri law enforcement computer system and any other similar system which has titling and registration information to determine if the abandoned property had been stolen. This information shall be entered only by the law enforcement agency making the inquiry;

- (8) The signature and printed name of the officer authorizing the tow; and
- (9) The name of the towing company, the signature and printed name of the towing operator, and an indicator disclosing whether the tower has online access to the department's records;
- (10) Any additional information the director of revenue deems appropriate.

7. One copy of the crime inquiry and inspection report shall remain with the agency which authorized the tow. One copy shall be provided to and retained by the storage facility and one copy shall be retained by the towing facility in an accessible format in the business records for a period of three years from the date of the tow or removal.

8. The owner of such abandoned property, or the holder of a valid security interest of record, may reclaim it from the towing company upon proof of ownership or valid security interest of record and payment of all reasonable charges for the towing and storage of the abandoned property.

9. Any person who removes abandoned property at the direction of a law enforcement officer or an officer of a government agency where that agency's real property is concerned as provided in this section shall have a lien for all reasonable charges for the towing and storage of the abandoned property until possession of the abandoned property is voluntarily relinquished to the owner of the abandoned property or to the holder of a valid security interest of record. Any personal property within the abandoned property need not be released to the owner thereof until the reasonable or agreed charges for such recovery, transportation or safekeeping have been paid or satisfactory arrangements for payment have been made, except that any medication prescribed by a physician shall be released to the owner thereof upon request. The company holding or storing the abandoned property shall either release the personal property to the owner of the abandoned property or allow the owner to inspect the property and provide an itemized receipt for the contents. The company holding or storing the property shall be strictly liable for the condition and safe return of the personal property. Such lien shall be enforced in the manner provided under section 304.156.

10. Towing companies shall keep a record for three years on any abandoned property towed and not reclaimed by the owner of the abandoned property. Such record shall contain information regarding the authorization to tow, copies of all correspondence with the department of revenue concerning the abandoned property, including copies of any online records of the towing company accessed and information concerning the final disposition of the possession of the abandoned property.

11. If a lienholder repossesses any motor vehicle, trailer, all-terrain vehicle, outboard motor or vessel without the knowledge or cooperation of the owner, then the reposessor shall notify the local law enforcement agency where the repossession occurred within two hours of the repossession and shall further provide the local law enforcement agency with any additional information the agency deems appropriate. The local law enforcement agency shall make an inquiry with the national crime information center and the Missouri statewide law enforcement computer system and shall enter the repossessed vehicle into the statewide law enforcement computer system.

12. Notwithstanding the provisions of section 301.227, RSMo, any towing company who has complied with the notification provisions in section 304.156, including notice that any property remaining unredeemed after thirty days may be sold as scrap property may then dispose of such property as provided in this subsection. Such sale shall only occur if at least thirty days has passed since the date of such notification, the abandoned property remains unredeemed with no satisfactory arrangements made with the towing company for continued storage, and the owner or holder of a security agreement has not requested a hearing as provided in section 304.156. The towing company may dispose of such abandoned property by selling the property on a bill of sale as prescribed by the director of revenue to a scrap metal operator or licensed salvage dealer for destruction purposes only. The towing company shall forward a copy of the bill of sale provided by the scrap metal operator or licensed salvage dealer to the director of revenue within two weeks of the date of such sale. The towing company shall keep a record of each such vehicle sold for destruction for three years that shall be available for inspection by law enforcement and authorized department of revenue officials. The record shall contain the year, make, identification number of the property, date of sale, and name of the purchasing scrap metal operator or licensed salvage dealer and copies of all notifications issued by the towing company as required in this chapter. Scrap metal operators or licensed salvage dealers shall keep a record of the purchase of such property as provided in section 301.227, RSMo. Scrap metal operators and licensed salvage dealers may obtain a junk certificate as provided in section 301.227, RSMo, on vehicles purchased on a bill of sale pursuant to this section.

304.281. 1. Whenever traffic is controlled by traffic control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(1) Green indication

(a) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. But vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited;

(b) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection;

(c) Unless otherwise directed by a pedestrian control signal, as provided in section 304.291, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(2) Steady yellow indication

(a) Vehicular traffic facing a steady yellow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection;

(b) Pedestrians facing a steady yellow signal, unless otherwise directed by a pedestrian control signal as provided in section 304.291, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(3) Steady red indication

(a) Vehicular traffic facing a steady red signal alone shall stop before entering the crosswalk on the near side of the intersection at a clearly marked stop line but, if none, then before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph (b);

(b) The driver of a vehicle which is stopped as close as practicable at the entrance to the crosswalk on the near side of the intersection or, if none, then at the entrance to the intersection in obedience to a red signal, may cautiously enter the intersection to make a right turn but shall yield the right-of-way to pedestrians and other traffic proceeding as directed by the signal at the intersection, except that the state highways and transportation commission with reference to an intersection involving a state highway, and local authorities with reference to an intersection involving other highways under their jurisdiction, may prohibit any such right turn against a red signal at any intersection where safety conditions so require, said prohibition shall be effective when a sign is erected at such intersection giving notice thereof;

(c) Unless otherwise directed by a pedestrian control signal as provided in section 304.291, pedestrians facing a steady red signal alone shall not enter the roadway.

(4) In the event an official traffic control signal is erected and maintained at a place other than an intersection, the provision of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

2. Notwithstanding the provisions of section 304.361, violation of this section is a class C misdemeanor.

3. A person operating a motorcycle who violates this section or section 304.301 by entering or crossing an intersection controlled by a traffic-control signal against a red light shall have an affirmative defense to that charge if the person establishes all of the following conditions:

(1) The motorcycle has been brought to a complete stop;

(2) The traffic-control signal continues to show a red light for an unreasonable time;

(3) The traffic-control is apparently malfunctioning or, if programmed or engineered to change to a green light only after detecting the approach of a motor vehicle, the signal has apparently failed to detect the arrival of the motorcycle; and

(4) No motor vehicle or person is approaching on the street or highway to be crossed or entered or is so far away from the intersection that it does not constitute an immediate hazard. The affirmative defense in this subsection applies only to a violation for entering or crossing an intersection controlled by a traffic-control signal against a red light and does not provide a defense to any other civil or criminal action.

304.351. 1. The driver of a vehicle approaching an intersection shall yield the right-of-way to a vehicle which has entered the intersection from a different highway, provided, however, there is no form of traffic control at such intersection.

2. When two vehicles enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the driver of the vehicle on the right. This subsection shall not apply to vehicles approaching each other from opposite directions when the driver of one of such vehicles is attempting to or is making a left turn.

3. The driver of a vehicle within an intersection intending to turn to the left shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard.

4. (1) The state highways and transportation commission with reference to state highways and local authorities with reference to other highways under their jurisdiction may designate through highways and erect stop signs or yield signs at specified entrances thereto, or may designate any intersection as a stop intersection or as a yield intersection and erect stop signs or yield signs at one or more entrances to such intersection.

[(1)] (2) Preferential right-of-way at an intersection may be indicated by stop signs or yield signs as authorized in this section:

(a) Except when directed to proceed by a police officer or traffic-control signal, every driver of a vehicle approaching a stop intersection, indicated by a stop sign, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic in the intersecting roadway before entering the intersection. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway or which is approaching so closely on the highway as to constitute an immediate hazard during the time when such driver is moving across or within the intersection.

(b) The driver of a vehicle approaching a yield sign shall in obedience to the sign slow down to a speed reasonable to the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway. After slowing or stopping the driver shall yield the right-of-way

to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such traffic is moving across or within the intersection.

5. The driver of a vehicle about to enter or cross a highway from an alley, building or any private road or driveway shall yield the right-of-way to all vehicles approaching on the highway to be entered.

6. The driver of a vehicle intending to make a left turn into an alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction when the making of such left turn would create a traffic hazard.

7. The state highways and transportation commission or local authorities with respect to roads under their respective jurisdictions, on any section where construction or major maintenance operations are being effected, may fix a speed limit in such areas by posting of appropriate signs, and the operation of a motor vehicle in excess of such speed limit in the area so posted shall be deemed prima facie evidence of careless and imprudent driving and a violation of section 304.010.

8. Notwithstanding the provisions of section 304.361, violation of this section shall be deemed a class C misdemeanor **unless such violation causes serious physical injury, in which case such violation shall be deemed a class B misdemeanor as provided for in subsection 10 of this section, or unless such violation causes death in which case such violation shall be deemed a class A misdemeanor as provided for in subsection 11 of this section.**

9. Any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused physical injury to a person or persons shall be assessed a fine of no less than two hundred dollars.

10. Any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused serious physical injury to a person or persons shall be guilty of a class B misdemeanor and shall be assessed a fine of no less than five hundred dollars.

11. Notwithstanding the provisions of subsection 8 of this section, any person who pleads guilty to or is found guilty of violating the provisions of this section in which the offender is found to have caused a fatality shall be guilty of a class A misdemeanor and shall be assessed a fine of no less than one thousand dollars.

12. As used in subsections 9 and 10 of this section, the terms "physical injury" and "serious physical injury" shall have the meanings ascribed to them in section 556.061, RSMo.

304.580. [1.] As used in [this section] **sections 304.582 and 304.585**, the term "construction zone" or "work zone" means any area upon or around any highway as defined in section 302.010, RSMo, which is visibly marked by the department of transportation or a contractor **or subcontractor** performing work for the department of transportation as an area where construction, maintenance, **incident removal**, or other work is temporarily occurring. The term "work zone" or "construction zone" also includes the lanes of highway leading up to the area upon which an activity

described in this subsection is being performed, beginning at the point where appropriate signs [directing motor vehicles to merge from one lane into another lane are posted.

2. Upon a conviction or a plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone.

3. Upon a conviction or plea of guilty by any person for a speeding violation pursuant to either section 304.009 or 304.010, or a passing violation pursuant to subsection 6 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law, if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any person in such zone who was there to perform duties related to the reason for which the area was designated a construction zone or work zone. However, no person assessed an additional fine pursuant to this subsection shall also be assessed an additional fine pursuant to subsection 2 of this section, and no person shall be assessed an additional fine pursuant to this subsection if no signs have been posted pursuant to subsection 4 of this section.

4. The penalty authorized by subsection 3 of this section shall only be assessed by the court if the department of transportation or contractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: \$250 fine for speeding or passing in this work zone".

5. During any day in which no person is present in a construction zone or work zone established pursuant to subsection 3 of this section to perform duties related to the purpose of the zone, the sign warning of additional penalties shall not be visible to motorists. During any period of two hours or more in which no person is present in such zone on a day in which persons have been or will be present to perform duties related to the reason for which the area was designated as a construction zone or work zone, the sign warning of additional penalties shall not be visible to motorists. The department of transportation or contractor performing work for the department of transportation shall be responsible for compliance with provisions of this subsection. Nothing in this subsection shall prohibit warning or traffic control signs necessary for public safety in the construction or work zone being visible to motorists at all times.

6. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone. This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane by an appropriate sign erected by the department of transportation or a contractor performing work for the department of transportation. Violation of this subsection is a class C misdemeanor. 7. This section shall not be construed to enhance the assessment of court costs or the assessment of points pursuant to section 302.302, RSMo.] **or traffic control devices are posted or placed. The term "worker" or**

"highway worker" as used in sections 304.582 and 304.585 shall mean any person who is working in a construction zone or work zone, or any employee of the department of transportation who is performing duties under the department's motorist assist program on a state highway or the right-of-way of a state highway.

304.582. 1. Upon the first conviction or plea of guilty by any person for a moving violation as defined in section 302.010, RSMo, or any offense listed in section 302.302, RSMo, the court shall assess a fine of thirty-five dollars in addition to any other fine authorized to be imposed by law, if the offense occurred within a construction zone or a work zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of seventy-five dollars in addition to any other fine authorized to be imposed by law.

2. Upon the first conviction or plea of guilty by any person for a speeding violation under section 304.009 or 304.010, or a passing violation under subsection 4 of this section, the court shall assess a fine of two hundred fifty dollars in addition to any other fine authorized by law, if the offense occurred within a construction zone or a work zone and at the time the speeding or passing violation occurred there was any highway worker in such work zone. A second or subsequent violation of this subsection shall result in the court assessing a fine of three hundred dollars in addition to any other fine authorized by law. However, no person assessed an additional fine under this subsection shall also be assessed an additional fine under subsection 1 of this section, and no person shall be assessed an additional fine under this subsection if no signs have been posted under subsection 3 of this section.

3. The penalty authorized by subsection 2 of this section shall only be assessed by the court if the department of transportation or contractor performing work for the department of transportation has erected signs upon or around a construction or work zone which are clearly visible from the highway and which state substantially the following message: "Warning: Minimum \$250 fine for speeding or passing in this work zone when workers are present."

4. The driver of a motor vehicle may not overtake or pass another motor vehicle within a work zone or construction zone as provided in this subsection. Violation of this subsection is a class C misdemeanor.

(1) This subsection applies to a construction zone or work zone located upon a highway divided into two or more marked lanes for traffic moving in the same direction and for which motor vehicles are instructed to merge from one lane into another lane and not pass by appropriate signs erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

(2) This subsection also prohibits the operator of a motor vehicle from passing or attempting to pass another motor vehicle in a work zone or construction zone located upon a two-lane highway when highway workers or equipment are working and when appropriate

signs or traffic control devices have been erected by the department of transportation or a contractor or subcontractor performing work for the department of transportation.

5. The additional fines imposed by subsection 4 of this section shall not be construed to enhance the assessment of court costs or the assessment of points under section 302.302, RSMo.

304.585. 1. A person shall be deemed to commit the offense of endangerment of a highway worker upon conviction for any of the following when the offense occurs within a construction zone or work zone, as defined in section 304.580:

- (1) Exceeding the posted speed limit by ten miles per hour or more;
- (2) Failure to stop for a work zone flagman or failure to obey traffic control devices erected in the construction zone or work zone for purposes of controlling the flow of motor vehicles through the zone;
- (3) Driving through or around a work zone by any lane not clearly designated to motorists for the flow of traffic through the work zone;
- (4) Physically assaulting, attempting to assault, or threatening to assault a highway worker in a construction zone or work zone, with a motor vehicle or other deadly weapon or dangerous instrument;
- (5) Negligently striking, moving, or altering barrels, barriers, signs, or other devices erected to control the flow of traffic to protect workers and motorists in the work zone; or
- (6) Committing any of the following offenses for which points may be assessed under section 302.302, RSMo, including:
 - (a) Leaving the scene of an accident in violation of section 577.060, RSMo;
 - (b) Careless and imprudent driving in violation of subsection 4 of section 304.016;
 - (c) Operating a vehicle without a valid license in violation of subdivision (1) or (2) of subsection 1 of section 302.020, RSMo;
 - (d) Operating a motor vehicle with a suspended or revoked license;
 - (e) Obtaining a drivers license by misrepresentation;
 - (f) Driving while in an intoxicated condition, or under the influence of controlled substances or drugs, or driving with an excessive blood alcohol content;
 - (g) Any felony involving the use of a motor vehicle; and
 - (h) Knowingly permitting an unlicensed operator to operate a motor vehicle.

2. Upon conviction or a plea of guilty for committing the offense of endangerment of a highway worker under subsection 1 of this section, in addition to any other penalty authorized by law, the person shall be guilty of a class A misdemeanor if no injury or death to a highway worker resulted from the offense. If a highway worker is injured as a result of the person committing the offense of endangerment of a highway worker, the person shall be guilty of a class D felony. If death of a highway worker results from the commission of the offense of endangerment of a highway worker, the person shall be guilty of a class C felony.

304.590. 1. There is hereby created in the state treasury for use by the highways and transportation commission a fund to be known as the "Work Zone Safety Trust Fund". All surcharges collected under this section, appropriations of the general assembly, federal grants, private donations, and any other moneys designated for the work zone safety trust fund established under this section shall be deposited in the fund. Moneys deposited in the fund shall be expended under the direction of the commission for the purpose of funding enforcement of all traffic laws of the state, including sections 304.582 and 304.585, by law enforcement personnel in construction zones or work zones on the highway system. Any funds determined by the commission not to be needed for enforcement in such construction zones or work zones may be expended for promotion of safety in construction zones or work zones through education, advertising, and other efforts to promote safety in construction zones or work zones to the general public. Such funds shall not be expended for salaries or administrative expenses of the department of transportation. Notwithstanding the provisions of section 33.080, RSMo, any unexpended balance in the work zone safety trust fund at the end of any biennium shall not be transferred to the general revenue fund. All interest earned from moneys in the work zone safety trust fund shall be credited to such fund.

2. In all violations of the traffic laws of this state, including infractions, there shall be assessed as court costs a surcharge in the amount of five dollars. No such surcharge shall be collected in any proceeding involving a violation of an ordinance or state law when the proceeding or defendant has been dismissed by the court except when the dismissal is conditioned upon an agreement to pay costs. Such surcharge shall be collected and distributed to the clerk of the court as provided in sections 488.010 to 488.020, RSMo. The surcharge collected under this section shall be paid to the state treasury to the credit of the work zone safety trust fund established in this section.

307.156. Any person, firm, or corporation that owns or operates a business engaged in whole or in part in servicing motor vehicles and installs or purports to install an airbag in a motor vehicle and either:

(1) Installs an airbag that does not meet all applicable federal safety regulations for an airbag installed in a vehicle of that make, model, and year; or

(2) Installs an airbag that previously has been installed in another motor vehicle without disclosing in writing to the owner or lessee of the vehicle receiving such airbag installation that a used airbag has been installed in it, shall be guilty of a class D felony.

307.178. 1. As used in this section, the term "passenger car" means every motor vehicle designed for carrying ten persons or less and used for the transportation of persons; except that, the term "passenger car" shall not include motorcycles, motorized bicycles, motor tricycles and trucks with a licensed gross weight of twelve thousand pounds or more.

2. Each driver, except persons employed by the United States Postal Service while performing duties for that federal agency which require the operator to service postal boxes from

their vehicles, or which require frequent entry into and exit from their vehicles, and front seat passenger of a passenger car manufactured after January 1, 1968, operated on a street or highway in this state, and persons less than eighteen years of age operating or riding in a truck, as defined in section 301.010, RSMo, on a street or highway of this state shall wear a properly adjusted and fastened safety belt that meets federal National Highway, Transportation and Safety Act requirements; except that, a child less than four years of age shall be protected as required in section 210.104, RSMo. No person shall be stopped, inspected, or detained solely to determine compliance with this subsection; **however, nothing shall prohibit a law enforcement officer from enforcing the provisions of this section if the violation is clearly visible to the officer without stopping the vehicle.** The provisions of this section shall not be applicable to persons who have a medical reason for failing to have a seat belt fastened about their body, nor shall the provisions of this section be applicable to persons while operating or riding a motor vehicle being used in agricultural work-related activities. Noncompliance with this subsection shall not constitute probable cause for violation of any other provision of law **or for a search of the driver, passenger, or vehicle.**

3. Each driver of a motor vehicle transporting a child four years of age or more[, but less than sixteen years of age,] shall secure the child in a properly adjusted and fastened [safety belt] **restraint under section 307.179.**

4. In any action to recover damages arising out of the ownership, common maintenance or operation of a motor vehicle, failure to wear a safety belt in violation of this section shall not be considered evidence of comparative negligence. Failure to wear a safety belt in violation of this section may be admitted to mitigate damages, but only under the following circumstances:

(1) Parties seeking to introduce evidence of the failure to wear a safety belt in violation of this section must first introduce expert evidence proving that a failure to wear a safety belt contributed to the injuries claimed by plaintiff;

(2) If the evidence supports such a finding, the trier of fact may find that the plaintiff's failure to wear a safety belt in violation of this section contributed to the plaintiff's claimed injuries, and may reduce the amount of the plaintiff's recovery by an amount not to exceed one percent of the damages awarded after any reductions for comparative negligence.

5. Each driver who violates the provisions of subsection 2 or 3 of this section is guilty of an infraction for which a fine not to exceed ten dollars may be imposed. All other provisions of law and court rules to the contrary notwithstanding, no court costs shall be imposed on any person due to a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for a violation of this section.

6. The [department of public safety] **state highways and transportation commission** shall initiate and develop a program of public information to develop understanding of, and ensure compliance with, the provisions of this section. The [department of public safety] **commission** shall evaluate the effectiveness of this section and shall include a report of its findings in the annual

evaluation report on its highway safety plan that it submits to NHTSA and FHWA pursuant to 23 U.S.C. 402.

7. If there are more persons than there are seat belts in the enclosed area of a motor vehicle, then the driver and passengers are not in violation of this section.

307.179. 1. As used in this section, the following terms shall mean:

(1) "Child booster seat", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, that is designed to elevate a child to properly sit in a federally approved safety belt system;

(2) "Child passenger restraint system", a seating system which meets the Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213, as amended, and which is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system;

(3) "Driver", a person who is in actual physical control of a motor vehicle.

2. Every person transporting a child under the age of sixteen years shall be responsible, when transporting such child in a motor vehicle operated by that person on the streets or highways of this state, for providing for the protection of such child as follows:

(1) Children less than four years of age shall be secured in a child passenger restraint system appropriate for that child;

(2) Children four through five years of age shall be secured in a child booster seat appropriate for that child;

(3) Children six years of age or older shall be secured by a vehicle safety belt.

3. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars. No court costs shall be charged for a violation of this section. In no case shall points be assessed against any person, pursuant to section 302.302, RSMo, for violation of this section. If a person receives a citation for violating this section, the charges shall be dismissed or withdrawn if the person prior to or at his or her hearing provides evidence of acquisition of a child passenger restraint system or child booster seat which is satisfactory to the court or the party responsible for prosecuting the person's citation.

4. The provisions of this section shall not apply to any public carrier for hire or to school buses as defined in section 301.010, RSMo, unless such school bus is required to be equipped with safety belts pursuant to federal motor vehicle safety standards.

5. The state highways and transportation commission shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of this section. The commission may promulgate rules and regulations for the enforcement of this section. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo,

and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2005, shall be invalid and void.

577.023. 1. For purposes of this section, unless the context clearly indicates otherwise:

(1) An "intoxication-related traffic offense" is driving while intoxicated, driving with excessive blood alcohol content, involuntary manslaughter pursuant to subdivision (2) of subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo, or driving under the influence of alcohol or drugs in violation of state law or a county or municipal ordinance, where the judge in such case was an attorney and the defendant was represented by or waived the right to an attorney in writing;

(2) A "persistent offender" is one of the following:

(a) A person who has pleaded guilty to or has been found guilty of two or more intoxication-related traffic offenses, where such two or more offenses occurred within ten years of the occurrence of the intoxication-related traffic offense for which the person is charged;

(b) A person who has pleaded guilty to or has been found guilty of involuntary manslaughter pursuant to subsection 1 of section 565.024, RSMo, assault in the second degree pursuant to subdivision (4) of subsection 1 of section 565.060, RSMo, assault of a law enforcement officer in the second degree pursuant to subdivision (3) of subsection 1 of section 565.082, RSMo; and

(3) A "prior offender" is a person who has pleaded guilty to or has been found guilty of one intoxication-related traffic offense, where such prior offense occurred within five years of the occurrence of the intoxication-related traffic offense for which the person is charged.

2. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a prior offender shall be guilty of a class A misdemeanor.

3. Any person who pleads guilty to or is found guilty of a violation of section 577.010 or 577.012 who is alleged and proved to be a persistent offender shall be guilty of a class D felony.

4. No **state, county, or municipal** court shall suspend the imposition of sentence as to a prior or persistent offender under this section nor sentence such person to pay a fine in lieu of a term of imprisonment, section 557.011, RSMo, to the contrary notwithstanding. No prior offender shall be eligible for parole or probation until he has served a minimum of five days imprisonment, unless as a condition of such parole or probation such person performs at least thirty days of community service under the supervision of the court in those jurisdictions which have a recognized program for community service. No persistent offender shall be eligible for parole or probation until he or she has served a minimum of ten days imprisonment, unless as a condition of such parole or

probation such person performs at least sixty days of community service under the supervision of the court.

5. The **state, county, or municipal** court shall find the defendant to be a prior offender or persistent offender, if:

(1) The indictment or information, original or amended, or the information in lieu of an indictment pleads all essential facts warranting a finding that the defendant is a prior offender or persistent offender; and

(2) Evidence is introduced that establishes sufficient facts pleaded to warrant a finding beyond a reasonable doubt the defendant is a prior offender or persistent offender; and

(3) The court makes findings of fact that warrant a finding beyond a reasonable doubt by the court that the defendant is a prior offender or persistent offender.

6. In a jury trial, the facts shall be pleaded, established and found prior to submission to the jury outside of its hearing.

7. In a trial without a jury or upon a plea of guilty, the court may defer the proof in findings of such facts to a later time, but prior to sentencing.

8. The defendant shall be accorded full rights of confrontation and cross-examination, with the opportunity to present evidence, at such hearings.

9. The defendant may waive proof of the facts alleged.

10. Nothing in this section shall prevent the use of presentence investigations or commitments.

11. At the sentencing hearing both the state, **county, or municipality** and the defendant shall be permitted to present additional information bearing on the issue of sentence.

12. The pleas or findings of guilty shall be prior to the date of commission of the present offense.

13. The court shall not instruct the jury as to the range of punishment or allow the jury, upon a finding of guilty, to assess and declare the punishment as part of its verdict in cases of prior offenders or persistent offenders.

14. Evidence of prior convictions shall be heard and determined by the trial court out of the hearing of the jury prior to the submission of the case to the jury, and shall include but not be limited to evidence of convictions received by a search of the records of the Missouri uniform law enforcement system maintained by the Missouri state highway patrol. After hearing the evidence, the court shall enter its findings thereon. A conviction of a violation of a municipal or county ordinance in a county or municipal court for driving while intoxicated or a conviction or a plea of guilty or a finding of guilty followed by a suspended imposition of sentence, suspended execution of sentence, probation or parole or any combination thereof in a state court shall be treated as a prior conviction.

577.041. 1. If a person under arrest, or who has been stopped pursuant to subdivision (2) or (3) of subsection 1 of section 577.020, refuses upon the request of the officer to submit to any test

allowed pursuant to section 577.020, then none shall be given and evidence of the refusal shall be admissible in a proceeding pursuant to section 565.024 or 565.060, RSMo, or section 577.010 or 577.012. The request of the officer shall include the reasons of the officer for requesting the person to submit to a test and also shall inform the person that evidence of refusal to take the test may be used against such person and that the person's license shall be immediately revoked upon refusal to take the test. If a person when requested to submit to any test allowed pursuant to section 577.020 requests to speak to an attorney, the person shall be granted twenty minutes in which to attempt to contact an attorney. If upon the completion of the twenty-minute period the person continues to refuse to submit to any test, it shall be deemed a refusal. In this event, the officer shall, on behalf of the director of revenue, serve the notice of license revocation personally upon the person and shall take possession of any license to operate a motor vehicle issued by this state which is held by that person. The officer shall issue a temporary permit, on behalf of the director of revenue, which is valid for fifteen days and shall also give the person a notice of such person's right to file a petition for review to contest the license revocation.

2. The officer shall make a [sworn] **certified** report [to the director of revenue, which] **under penalties of perjury for making a false statement to a public official. The report shall be forwarded to the director of revenue and** shall include the following:

- (1) That the officer has:
 - (a) Reasonable grounds to believe that the arrested person was driving a motor vehicle while in an intoxicated or drugged condition; or
 - (b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or
 - (c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer has reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater;
- (2) That the person refused to submit to a chemical test;
- (3) Whether the officer secured the license to operate a motor vehicle of the person;
- (4) Whether the officer issued a fifteen-day temporary permit;
- (5) Copies of the notice of revocation, the fifteen-day temporary permit and the notice of the right to file a petition for review, which notices and permit may be combined in one document; and
- (6) Any license to operate a motor vehicle which the officer has taken into possession.

3. Upon receipt of the officer's report, the director shall revoke the license of the person refusing to take the test for a period of one year; or if the person is a nonresident, such person's operating permit or privilege shall be revoked for one year; or if the person is a resident without a

license or permit to operate a motor vehicle in this state, an order shall be issued denying the person the issuance of a license or permit for a period of one year.

4. If a person's license has been revoked because of the person's refusal to submit to a chemical test, such person may petition for a hearing before a circuit or associate circuit court in the county in which the arrest or stop occurred. The person may request such court to issue an order staying the revocation until such time as the petition for review can be heard. If the court, in its discretion, grants such stay, it shall enter the order upon a form prescribed by the director of revenue and shall send a copy of such order to the director. Such order shall serve as proof of the privilege to operate a motor vehicle in this state and the director shall maintain possession of the person's license to operate a motor vehicle until termination of any revocation pursuant to this section. Upon the person's request the clerk of the court shall notify the prosecuting attorney of the county and the prosecutor shall appear at the hearing on behalf of the director of revenue. At the hearing the court shall determine only:

(1) Whether or not the person was arrested or stopped;

(2) Whether or not the officer had:

(a) Reasonable grounds to believe that the person was driving a motor vehicle while in an intoxicated or drugged condition; or

(b) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was driving a motor vehicle with a blood alcohol content of two-hundredths of one percent or more by weight; or

(c) Reasonable grounds to believe that the person stopped, being under the age of twenty-one years, was committing a violation of the traffic laws of the state, or political subdivision of the state, and such officer had reasonable grounds to believe, after making such stop, that the person had a blood alcohol content of two-hundredths of one percent or greater; and

(3) Whether or not the person refused to submit to the test.

5. If the court determines any issue not to be in the affirmative, the court shall order the director to reinstate the license or permit to drive.

6. Requests for review as provided in this section shall go to the head of the docket of the court wherein filed.

7. No person who has had a license to operate a motor vehicle suspended or revoked pursuant to the provisions of this section shall have that license reinstated until such person has participated in and successfully completed a substance abuse traffic offender program defined in section 577.001, or a program determined to be comparable by the department of mental health or the court. Assignment recommendations, based upon the needs assessment as described in subdivision (22) of section 302.010, RSMo, shall be delivered in writing to the person with written notice that the person is entitled to have such assignment recommendations reviewed by the court if the person objects to the recommendations. The person may file a motion in the associate division of the circuit court of the county in which such assignment was given, on a printed form provided

by the state courts administrator, to have the court hear and determine such motion pursuant to the provisions of chapter 517, RSMo. The motion shall name the person or entity making the needs assessment as the respondent and a copy of the motion shall be served upon the respondent in any manner allowed by law. Upon hearing the motion, the court may modify or waive any assignment recommendation that the court determines to be unwarranted based upon a review of the needs assessment, the person's driving record, the circumstances surrounding the offense, and the likelihood of the person committing a like offense in the future, except that the court may modify but may not waive the assignment to an education or rehabilitation program of a person determined to be a prior or persistent offender as defined in section 577.023, or of a person determined to have operated a motor vehicle with fifteen-hundredths of one percent or more by weight in such person's blood. Compliance with the court determination of the motion shall satisfy the provisions of this section for the purpose of reinstating such person's license to operate a motor vehicle. The respondent's personal appearance at any hearing conducted pursuant to this subsection shall not be necessary unless directed by the court.

8. The fees for the substance abuse traffic offender program, or a portion thereof to be determined by the division of alcohol and drug abuse of the department of mental health, shall be paid by the person enrolled in the program. Any person who is enrolled in the program shall pay, in addition to any fee charged for the program, a supplemental fee to be determined by the department of mental health for the purposes of funding the substance abuse traffic offender program defined in section 302.010, RSMo, and section 577.001. The administrator of the program shall remit to the division of alcohol and drug abuse of the department of mental health on or before the fifteenth day of each month the supplemental fee for all persons enrolled in the program, less two percent for administrative costs. Interest shall be charged on any unpaid balance of the supplemental fees due the division of alcohol and drug abuse pursuant to this section and shall accrue at a rate not to exceed the annual rates established pursuant to the provisions of section 32.065, RSMo, plus three percentage points. The supplemental fees and any interest received by the department of mental health pursuant to this section shall be deposited in the mental health earnings fund which is created in section 630.053, RSMo.

9. Any administrator who fails to remit to the division of alcohol and drug abuse of the department of mental health the supplemental fees and interest for all persons enrolled in the program pursuant to this section shall be subject to a penalty equal to the amount of interest accrued on the supplemental fees due the division pursuant to this section. If the supplemental fees, interest, and penalties are not remitted to the division of alcohol and drug abuse of the department of mental health within six months of the due date, the attorney general of the state of Missouri shall initiate appropriate action of the collection of said fees and interest accrued. The court shall assess attorney fees and court costs against any delinquent program.

[210.104. 1. Every person transporting a child under the age of four years shall be responsible, when transporting such child in a motor vehicle operated by that

person on the streets or highways of this state, for providing for the protection of such child. Such child shall be protected by a child passenger restraint system approved by the department of public safety.

2. Any person who violates this section is guilty of an infraction and, upon conviction, may be punished by a fine of not more than twenty-five dollars and court costs.

3. The provisions of sections 210.104 to 210.107 shall not apply to any public carrier for hire.]

[210.107. The department of public safety shall initiate and develop a program of public information to develop understanding of, and ensure compliance with the provisions of sections 210.104 to 210.107. The department of public safety shall, within thirty days of September 28, 1983, promulgate standards for the performance, design, and installation of passenger restraint systems for children under four years of age in accordance with federal motor vehicle safety standards and shall approve those systems which meet such standards. No rule or portion of a rule promulgated under the authority of sections 210.104 to 210.107 shall become effective unless it has been promulgated pursuant to the provisions of section 536.024, RSMo.]

Bill

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